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ABSTRACT

This publication provides school administrators, teachers, staff, shelter personnel, social service providers, and others with information on the education of homeless children and youth in Texas. It covers a broad range of topics with information on current federal and state laws and policies, educational programs and services, and state and local social services. It provides insights into the physical and mental health and safety needs of homeless children and youth and how these needs can be addressed through collaboration between the school and community. After a glossary of acronyms, the paper presents background information on the Stewart B. McKinney Homeless Assistance Act, the Texas response to the Act, the Texas response to children and youth living without parents or legal guardians, state legislation, and homelessness in Texas. Additional resources on homeless education are listed. Part 1 offers a definition of homelessness and homeless children. Part 2 describes school responsibilities for enrollment. Part 3 focuses on how schools can help homeless students and what these students' needs are. Part 4 describes the role of shelters. Part 5 discusses special education and the homeless student. (SM)

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ED 442 881

Q&A

Questions and Answers Guide on the Education of Children and Youth in Homeless Situations

July 1999

Opening the Doors of Public Education for Children and Youth in Texas

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QUESTIONS & ANSWERS GUIDE
FOR
THE EDUCATION OF
CHILDREN AND YOUTH IN
HOMELESS SITUATIONS

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Glossary of Acronyms

AIDS ..... Acquired Immune Deficiency Syndrome

ARD ..... Admission, Review, and Dismissal

ESEA ..... Elementary and Secondary Education Act

FERPA ..... Family Educational Rights and Privacy Act

LEA ..... Local Education Agency

OEHCY ..... Office for the Education of Homeless Children and Youth

PEIMS ..... Public Education Information Management System

PL ..... Public Law

PRS ..... Pregnancy Related Services

TAC ..... Texas Administrative Code

TEA ..... Texas Education Agency

TEC ..... Texas Education Code

USCA ..... United States Code Annotated

Background Information

The Stewart B. McKinney Homeless Assistance Act

The Stewart B. McKinney Homeless Assistance Act is the primary federal legislation that directly addresses the problem of homelessness in the United States. The McKinney Act is an omnibus bill, that is, it deals with a variety of assistance--emergency shelter, emergency food assistance, traditional housing, health and mental health care, job training, and a few permanent housing programs--in addition to education. The portion of the McKinney Act related to the education of homeless children and youth is Subtitle VII-B.

The McKinney Act was passed in 1987 and reauthorized, with little alteration, for another two years in 1988. It was again reauthorized and amended in 1990, this time with more substantial revisions to the education subtitle. These changes served to strengthen weaker parts of the original Subtitle VII-B. In 1994, laws pertaining to the education of homeless children and youth were again amended and strengthened through passage of the *Improving America's School Act*.

The McKinney Act is important in educating homeless children for the following reasons:

- it defines homelessness;
- it requires that all homeless youth have access to a free and appropriate public education;
- it requires every state to review and revise all laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children;
- it stipulates that homelessness alone should not be sufficient reason to separate students from the mainstream school environment;
- it requires that homeless children and youth have access to the education and services they need to ensure them an opportunity to meet the same challenging state standards to which all students are held;

- it requires state education agencies to appoint a Coordinator for the Education of Homeless Children and Youth;

- it requires each state to adopt a plan to provide for the education of each homeless child or homeless youth within the State; and

- it allocates money for the states to distribute in competitive, discretionary grants for programs that are created to meet the needs of homeless children.

The federal definition of homelessness, presented and discussed in Part 1 of this document, is usually sufficient to determine the homeless status of any student. However, situations arise that do not fit neatly into the parameters of the federal statute. Further guidance regarding the definition of homelessness and the education subtitle of the Stewart B. McKinney Homeless Assistance Act can be found in the *Preliminary Guidance for the Education for Homeless Children and Youth Program* (June 1995) by the U.S. Department of Education. In order to obtain copies of the *Preliminary Guidance*, please contact the Office for the Education of Homeless Children and Youth (OEHCY), 1-800-446-3142 (toll-free in Texas), or access the OEHCY website, http://www.utdanacenter.org/OEHCY. Additional information and assistance regarding the definition of homelessness, the McKinney Act, or the education of homeless children and youth can be obtained from the OEHCY or the Texas Education Agency's Legal Services Division, (512) 473-9720.

The Texas Response To McKinney

The Texas Education Agency (TEA) and the Texas Legislature took several actions in response to the passage of the McKinney Act. The TEA appointed a State Coordinator for the Education of Homeless Children and Youth and created the OEHCY. In 1991, state legislators revised the Texas Education Code (TEC) to allow any homeless youth (over 5 and under 21 on September 1) to enroll in any district regardless of the residence of the youth, either parent of the youth, or the youth's guardian or other person having lawful control of her/him [this language can now be found in TEC §25.001(b)(5)].

The Texas Response To Children And Youth Living Without Parents or Legal Guardians

In 1991, state legislators also changed the laws regarding guardianship requirements and enrollment. This change was not made in response to the McKinney Act and did not address homeless students. It had implications for a much broader segment of the school-age population than students experiencing homelessness. However, it did address living arrangements and family situations that are often confused or mistaken as homeless situations.

The TEC was changed to allow **children and youth who were not homeless** but who were living separate and apart from their parents and legal guardians, to enroll in school, as long as certain conditions applied [this language can now be found in TEC 25.001(b)(4) and (d)]. This change enables children and youth who are not homeless but who are living with other relatives, friends, by themselves, or in any other situation in which they are living separate and apart from parents or legal guardians, to enroll in the district in which they reside. If a student who is not homeless lives within a district separate from the presence of a legal guardian, that student cannot be denied enrollment unless he/she is in the district for the primary purpose of participating in extracurricular activities. Senate Bill 1 added language to TEC §25.001(d) that allowed districts to refuse admission to children and youth who were not homeless but who were living separate and apart from a parent or legal guardian if they had been removed to an alternative school or expelled within the last year or are currently on probation or other conditional release for juvenile delinquency, conduct indicating a need for supervision, or a criminal offense.

It is important to emphasize that the enrollment law regarding children and youth that are homeless, TEC §25.001(b)(5), is different. If a child or youth is homeless, then they must be enrolled, without exception, regardless of the residence of that person, of either parent of the person, or of the person's guardian or other person having lawful control of the person.

The 74th Texas Legislature and Senate Bill 1

In 1995, the 74th Texas Legislature passed Senate Bill 1 (SB 1), which contained several major changes to the state's education code relating to discipline, law and order, alternative education programs, curriculum, and decentralization of the Texas Education Agency. SB 1 introduced little that addressed the specific educational needs of homeless students. Homelessness was added to the prekindergarten eligibility requirements [TEC §29.153(b)(3)] and to the eligibility requirements for students to be exempt from

compulsory school attendance because they are at least 17 years of age and attending a course of instruction to prepare for the high school equivalency examination [TEC §25.086(a)(5)(A)(iv)]. However, changes made to state education law by SB 1 were comprehensive and affected all students, including those that are homeless.

Homelessness In Texas

Texas is the second most populous state in the nation and contains three of the ten largest cities in the country. As of 1994, Texas ranked 2nd in terms of numbers of people living below the poverty level and 5th in terms of the percentage of people living below the poverty level. The existence of homelessness in a state with these demographics is inevitable.

Because Texas is vast, encompassing a plethora of geographies and cultures, homelessness manifests itself in many different ways throughout the state. There is both urban and rural homelessness; however, the greatest concentrations of homelessness tend to occur in the larger cities. Homelessness can be seen along the beaches of the gulf coast, the agricultural regions of the valley, the colonias on the border, the plains of the panhandle, the woods of East Texas, as well as in every large city.

Research demonstrates that homelessness, especially for children and families, is extremely episodic. Long-term, chronic homelessness is experienced by a small segment of the total homeless population; however, this small segment of the chronically homeless tends to use a disproportionate amount of the emergency services for the homeless. Because of this, conducting any kind of count of people accessing emergency services in order to determine the size of the total homeless population is inherently problematic. Virtually every single, scientifically valid method of counting the homeless is inordinately expensive. In fact, a statewide census of the homeless population in Texas has never been conducted. Estimates of the size of the homeless population in the state have been made and studies have counted the homeless in specific cities, counties, or communities. However, these estimates and studies have utilized varying definitions and methodologies. Any extrapolations or comparisons using these findings must be made with an awareness of the innate limitations of such numbers.

Although no statewide census of the homeless in Texas has been conducted, the estimates and studies that do exist help to give a ballpark idea of the size of the problem. Until 1993,

the U.S. Department of Education required states to conduct an informal census of the number of homeless youth living in the State. This informal census did not attempt to determine the entire homeless population in the state; it was focussed solely on the number of children and youth that were homeless. The most recent count, conducted in November 1993 by the OEHCY, estimated that over 123,000 children and youth in Texas experience homelessness over the course of a year. A subsequent OEHCY estimate, made in 1997 and based on the 1993 count, found that over 130,000 children and youth in Texas experienced homelessness over the course of the year. These two estimates give a good indication of the scope of the homeless student population in Texas. These estimates are conservative, low-end estimates based on counts conducted in several different school districts throughout Texas.

Other recent studies, primarily focusing on individual cities, also help to indicate the scope of the overall homeless problem facing the state. According to a recent study conducted by the Institute for Children and Poverty, *Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America*, the Tarrant County Coalition for the Homeless estimates that 430 families with 529 children, comprising 1068 individuals, are homeless on any given day throughout Tarrant County. They estimate that this total accounts for 49% of the total homeless population in the county on any given day. The *Ten Cities* study includes an estimate from the City of Dallas that 780 individuals in families are in need of emergency or transitional shelter on any given day in Dallas. They estimate that this number comprises 31% of the total homeless population in the city of Dallas on any given day. The *Ten Cities* study also includes an estimate that 820 individuals in families are in need of emergency or transitional shelter daily in San Antonio and that this total comprises 42% of the daily homeless population in that city.

The Coalition for the Homeless of Houston/Harris County conducts an annual one-day emergency shelter bed occupancy count. On January 23, 1997, they found that 2,105 of the total 2,356 emergency shelter beds were utilized, for an occupancy rate of 89.4%. This represents a 7% increase in occupancy over the 1996 count. Their annual report, *Homeless Service Demands 1997*, includes the findings that women and children comprise approximately half of the emergency shelter population in Houston; there has been a 133% increase in emergency assistance calls since 1995; and 88% of the people turned away from emergency shelters due to lack of space are women and children.

Purpose of this Document

The purpose of this document is to provide school administrators, instructors, staff, shelter personnel, social service providers, and others with a reference guide for the education of homeless children and youth in Texas. As a guide, this document is intended to be consulted for information pertaining to 1) the legal protections under state and federal law that safeguard educational opportunity for children and youth without homes, and 2) the responsibilities of local education agencies (LEAs) to ensure that these children enroll, attend, and succeed in school. To this end, the guide covers a broad range of topics with important information on current federal and state laws and policies, educational programs and services, and state and local social services. The guide also provides valuable insights into the physical and mental health and safety needs of homeless children and youth and how these needs, which challenge educators, can be addressed through collaboration between the school and community.

There are many possible uses for this guide; for example, LEAs can use it to develop district policies, practices, and programs. By reviewing the guide, school officials can identify and acknowledge the ways in which the school is succeeding or failing to address the needs of homeless students. School officials and other service providers can also use the guide to produce and conduct inservices at schools, shelters, and other social service agencies. Finally, many educators and service providers that assist homeless children and youth have expressed concern about how they might better respond to the needs of such children. This guide offers ideas and recommendations for transforming such concern into positive action.

Additional Resources

Other related documents on homeless education that school personnel and service providers might find helpful include the following:

Hightower, Amy M.; Sara P. Nathanson; and George L. Wimberly, III. 1997. *Meeting the Educational Needs of Homeless Children and Youth: A Resource for Schools and Communities.* Washington, DC: U.S. Department of Education.

Meeting the Educational Needs of Homeless Children and Youth contains information about the educational needs of children and youth experiencing homelessness and describes strategies from across the country that seek to fill those needs. It contains

examples of ways to help these students achieve full, effective participation in school. Copies of this document may be obtained free of charge by writing to the U.S. Department of Education, Compensatory Education Programs, Office of Elementary and Secondary Education at 600 Independence Avenue, SW, Washington, DC 20202-6132 or by calling 1-800-USE-LEARN(1-800-879-5327).

Texas Office for the Education of Homeless Children and Youth. 1997. *Pieces of the Puzzle: Creating Success for Students in Homeless Situations*. Austin: The Charles A. Dana Center.

Pieces of the Puzzle is a compendium of information, strategies, and resources for addressing the educational needs of children and youth in homeless situations. It is designed to be used as a stand-alone resource, a catalyst to develop action plans, and/or as a trainer-of-trainers manual. It is accompanied by an optional 20-minute video that can be used in staff development, in-services, or workshops. An electronic version of the manual is available for free as a PDF document on the website for the Texas Office for the Education of Homeless Children and Youth, http://www.utdanacenter.org/OEHCY. Otherwise, the manual is $45, the video is $10, and both together are $50. *Pieces of the Puzzle* can be ordered from the Texas Office for the Education of Homeless Children and Youth, The University of Texas at Austin—Charles A. Dana Center, 2901 North IH-35, DEV 2.200, Austin, Texas 78722-2348 or by calling 1-800-446-3142 (toll-free in Texas) or (512) 475-9702.

U.S. Department of Education. 1995, June. *Preliminary Guidance for the Education for Homeless Children and Youth Program, Title VII, Subtitle B*. Washington, DC: Author.

This document is non-regulatory guidance from the U.S. Department of Education on the education subtitle of the Stewart B. McKinney Homeless Assistance Act. Copies of this document may be obtained free of charge on the website for the Texas Office for the Education of Homeless Children and Youth, http://www.utdanacenter.org/OEHCY; by writing the Texas Office for the Education of Homeless Children and Youth, The University of Texas at Austin—Charles A. Dana Center, 2901 North IH-35, DEV 2.200, Austin, Texas 78722-2348; or by calling 1-800-446-3142 (toll-free in Texas) or (512) 475-9702.

Web resources that school personnel and service providers might find helpful in homeless education include the following:

The National Coalition for the Homeless

http://www2.ari.net/home/nch/

The Texas Education Agency
http://www.tea.state.tx.us/

The Texas Homeless Network
http://www.thn.org/

The Texas Office for the Education of Homeless Children and Youth
http://www.utdanacenter.org/OEHCY

The U.S. Department of Education
http://www.ed.gov/

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Part 1: Definition of Homelessness

1.1 What is the definition of a homeless child?

The McKinney Homeless Assistance Act, codified in U.S.C.A. 42 Section 11302(a) defines a "homeless individual/"or "homeless person" as:

> ***Section 11302. General definition of homeless individual***
>
> *(a) In general*
>
> *For purposes of this chapter, the term "homeless" or "homeless individual" or "homeless person" includes —*
>
> *(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and*
>
> *(2) an individual who has a primary nighttime residence that is--*
>
> *(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);*
>
> *(B) an institution that provides a temporary residence for individuals intended to be institutionalized; or*
>
> *(C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.*

The Texas Office for the Education of Homeless Children and Youth describes the following situations in which a child or youth may be considered homeless:

- A child or youth sleeps at night in a shelter for the homeless (including family shelters, runaway youth shelters, and domestic violence shelters);
- A child or youth sleeps at night in a shelter awaiting institutionalization, adoption, foster care, or other placement; and
- A child or youth sleeps at night in a car, tent, an abandoned building, or other place not ordinarily used as a sleeping accommodation for human beings.

Some living situations are unambiguous, for example, students who sleep at night in homeless shelters are homeless. However, others require that a school or district make a determination based on circumstances that are more difficult to determine. The *Preliminary Guidance for the Education for Homeless Children and Youth Program* (June 1995) from the U.S. Department of Education states:

> *In determining whether a child or youth is homeless, the relative permanence of the living arrangements should be considered. States and LEAs must make determinations*

on a case-by-case basis. In general, children or youth living in welfare hotels, transitional housing shelters, the streets, cars, abandoned buildings, and other inadequate accommodations are considered homeless.

1.2 **Are children who live either by themselves or with their families in emergency shelters for the homeless to be considered homeless?**
Generally, yes. U.S.C.A. 42 §11302 (a)(2)(A), quoted in the answer to question 1.1, includes in the definition of homeless any person who resides in a supervised publicly or privately operated shelter designed to provide **temporary** living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill). In almost every circumstance in which a person resides in a homeless shelter, they are to be considered homeless.

1.3 **Are children who have been placed by the state in transitional or emergency shelters to be considered homeless?**
In most circumstances, yes. Guidelines from the U.S. Department of Education (1995) indicate that children should be considered homeless if the placement is of a transitional or emergency nature. Typically, these are children who are awaiting foster care or other more permanent placement. While they are residing in the shelter, awaiting more permanent placement, they should be considered homeless. Once placed in a more permanent setting, such as a foster home or a home for neglected children and youth, they should no longer be considered homeless. However, if the placement by the state in the shelter is intended to be permanent (i.e., until children reach age 18), the children should not be considered homeless.

1.4 **Are children who are incarcerated or in Texas youth correction facilities to be considered homeless?**
Generally, no. U.S.C.A. 42 §11302(c) specifically excludes from the definition of homeless individuals any person who is imprisoned or otherwise detained by Act of Congress or state law. Children who are incarcerated for violation or alleged violation of law should not be considered homeless even if, prior to incarceration, they would have met the definition provided by the McKinney Act. However, children who are under care of the state and are being held temporarily in an institution because they have no other place to live should be considered homeless.

1.5 **Are children in foster care to be considered homeless?**
Generally, no. Guidelines from the U.S. Department of Education (1995) indicate that children in foster care generally should not be considered homeless based upon the definitions provided in the McKinney Act. However, if children are temporarily placed in foster care because of a lack of shelter space, they can be considered homeless. TEC §25.001(f) states that a child placed in foster care shall be permitted to attend the public schools of the district in which the foster parent(s) reside(s).

1.6 **Are children who run away from home to be considered homeless?**
Guidelines from the U.S. Department of Education (1995) indicate that children or youth who have run away from home and live in runaway shelters, abandoned buildings, the streets, or other inadequate accommodations are considered homeless, even if their parents have provided and are willing to provide a home for them.

1.7 **Are "throwaway children" to be considered homeless?**
"Throwaway children" is the phrase given to describe children whose parents or guardians will not permit them to live at home. Guidelines from the U.S. Department of Education (1995) indicate that these children are considered homeless if they live on the streets, in shelters, or in other transitional or inadequate accommodations.

1.8 **Are children who live in doubled-up families (e.g., multiple families living in a single family residence) to be considered homeless?**
Guidelines from the U.S. Department of Education (1995) indicate that when one family has lost its housing and moved in with another family, the children of the family that lost its housing should be considered homeless. The children of the family that share their home should not be considered homeless. Families living in doubled-up accommodations voluntarily to save money generally should not be considered homeless.

1.9 **Are <u>all</u> children who live with friends or relatives to be considered homeless?**
No. Guidelines from the U.S. Department of Education (1995) indicate that some children who live with friends or relatives may not be homeless, depending upon their reasons for living with the friends or relatives and the permanence of the living arrangement. A child who lives with friends or relatives should be considered homeless if they are doubled-up because of a loss of housing or some similar situation.

1.10 **Are children who qualify for migrant services to be considered homeless?**
According to guidelines from the U.S. Department of Education (1995), the children of migrant workers should not be considered homeless simply because they are

from a family of migrant workers. They should be considered homeless only if they meet the definition provided in the answer to question 1.1; however, many children who qualify for migrant services reside in a fixed, regular, and adequate nighttime residence and should not be considered homeless.

1.11 **Are children living in camp grounds to be considered homeless?**
According to guidelines from the U.S. Department of Education (1995), children staying temporarily in camping areas because they lack adequate living accommodations should be considered homeless.

1.12 **Are school-age mothers to be considered homeless?**
According to guidelines from the U.S. Department of Education (1995), if school-age mothers or expectant mothers are living in homes for unwed mothers, or other temporary, emergency shelter, and they have no other available living accommodations, they should be considered homeless. However, if they are staying in a home for school-age mothers only temporarily to receive specific health care or other services, and intend to move to other adequate accommodations, they should not be considered homeless.

1.13 **Are sick or abandoned children to be considered homeless?**
In some situations, school-age children are abandoned in hospitals by their families. In such cases, the hospital may act as shelter for these children until other arrangements can be made. These children should be considered homeless.

Part 2: School Responsibilities for Enrollment

2.1 Should homeless children and youth be enrolled in school?
Yes. TEC §25.001(b)(5) establishes that Texas school districts shall admit children and youth who are homeless. If a child or youth is homeless, the district shall admit that child or youth regardless of their residence, or the residence of their parent(s), guardian(s), or anyone else having lawful control of them. TEC §25.001(b)(5) states:

> *(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:*
>
> > *(5) the person is homeless, as defined by 42 U.S.C. Section 11302* [see the response to question 1.1 on page 11 of this Q&A document], *regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;*

2.2 Where can children and youth experiencing homelessness enroll in school?
There are two different laws that address the question of where children and youth experiencing homelessness can enroll. TEC §25.001(b)(5) states that a school **district** shall enroll a person that is homeless, regardless of the residence of that person or either parent of that person, or of the person's legal guardian or other person having lawful control of that person. Therefore, if a student is homeless, he can enroll in any **district** in the state, regardless of where he or his parents or guardians reside. The TEC does not specify a process for establishing which school **within** a district the homeless student will attend.

Although a student that is homeless can, literally, enroll in any district in the state, most school transportation will not extend beyond district boundaries. Therefore, if a student attends a district in which she does not reside, it is up to that student, or that student's family, to ensure that the student can get to and from school. It does happen that there are students experiencing homelessness enrolled in districts in which they do not reside; however, this is not a common occurrence. This type of enrollment usually occurs when students choose to remain in their school of origin even though they have moved into a shelter (or other temporary residence) in an adjoining district. Because of this, TEC §25.001(b)(5) does help to foster school continuity for students experiencing homelessness.

The second law that affects the school in which children and youth experiencing homelessness can enroll is Section 722(g)(3)(A)-(D) of the McKinney Act [as amended in PL (Public Law) 101-465 and PL 103-382]. This section of the McKinney Act, known as the **school choice** provision, requires that each homeless child be allowed to maintain enrollment in the **school** the child attended before becoming homeless, or to enroll in the **school** where the child is now located while experiencing homelessness, whichever is in the best interest of the child. The LEA is directed to comply to the extent feasible with the request made by a parent or

guardian regarding school choice. The McKinney Act explicitly states that the choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents. However, these options regarding choice are only available for the year the family becomes homeless (or the subsequent year, if they become homeless during the summer).

Because these two laws, Section 25.001(b)(5) of the TEC and the school choice provision of the McKinney Act, are similar, they are often confused. However, they do provide for different things. Section 25.001(b)(5) of the TEC concerns the **district** in which a child or youth experiencing homelessness can enroll. The school choice provision of the McKinney Act concerns the specific **school** in which a child or youth experiencing homelessness can attend. This school choice provision stipulates a minimum standard with which a state must comply for students who become homeless—it must allow at least for the choice between the school of origin and the school of the new location; however, it does not limit the state to only these two choices. Thus the TEC and the school choice provision of McKinney work in conjunction with each other to allow for continuity and flexibility for students experiencing homelessness.

There is an additional provision of the TEC that, indirectly, has the potential to affect the school that a child or youth experiencing homelessness attends. TEC §25.033 provides parents or persons standing in parental relation to a child the opportunity to request assignment to a specific school. This could provide an additional option for parents or caregivers of homeless children when those children have been homeless for longer than one year and are thus ineligible for the school choice provisions in the McKinney Act.

2.3 **Can a school require proof of residency (rent receipt, lease agreements, utility receipts, property tax receipts, etc.) that prevents or delays the enrollment of children or youth experiencing homelessness?**

No. Section 721(1) of the McKinney Act requires that children in homeless situations be provided equal access to the same free, appropriate public education as provided other children and youth. School districts cannot prevent the enrollment of children and youth without homes through residency requirements. If a child is homeless, inability to provide documentation of permanent residence should not prevent or delay the child's enrollment. Efforts to deny these legal protections that guarantee prompt enrollment may be actionable in federal court, requiring payment of damages and attorney fees.

2.4 **When a homeless child or youth is not living with parents or legal guardians, is the school district required to enroll the child?**

Yes. TEC §25.001(b)(5) requires school districts to enroll homeless children or youth regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child. Section 722(g)(3)(D) of the McKinney Act specifies that the choice regarding placement shall

be made regardless of whether the child is living with parents or in another temporary placement.

2.5 **If a homeless child or youth attempts to enroll in school without a parent, guardian, or other adult supervision, should the school district enroll the child?**
Yes. Section 722(g)(3)(D) of the McKinney Act assures the educational placement of children who are living without parents or guardians. TEC §25.001(b)(5) requires school districts to enroll homeless children or youth regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child.

2.6 **If a child or youth in a homeless situation does not have records from a previous school, may the school district delay the student's enrollment until records are received?**
No. TEC §25.002(a) gives **all** students a period of 30 days **after** enrollment to provide schools with the records necessary for enrollment. TAC 19 §129.1(b) specifically states that children shall not be denied enrollment or be removed solely because they fail to provide school records. In addition, according to Section III (2-2) of the Texas Education Agency's *1998-99 Student Attendance Accounting Handbook*, upon a student's enrollment in the district, a **bona fide** effort should be made to secure all records and/or required documentation pertaining to the student from the previous district and/or parent, if applicable. The previous district is required to forward the records under TEC §25.002(a).

2.7 **If a homeless child or youth does not have proof of immunization, must a school district enroll the student?**
Yes. Under TEC 25.002(a), schools cannot deny a child enrollment for lack of proof of immunization. Schools are required to enroll students and give them 30 days to provide the school documentation that they have been immunized as required under law. Also, school districts may make use of a free immunization tracking service offered by the Texas Department of Health. If the child has been immunized in Texas and the location of the clinic or the doctor's office where the immunization was provided is known, the school can call, toll-free,
1-800-252-9152 (or 458-7284 from the Austin area). The Texas Department of Health will collect the necessary information and send a copy of the immunization record.

2.8 **If a child or youth experiencing homelessness does not have documentation of a tuberculosis screening, can the school require such a screening prior to enrollment?**
No. Tuberculosis screening is not an immunization and to prohibit the enrollment of students who have not had a tuberculosis screening exceeds the enrollment requirements found in TEC §38.001(a). Districts are urged to work with public local health care providers to establish a procedure for obtaining tuberculosis screenings in an expedited manner for homeless and other indigent children.

2.9 When a child or youth without a home is not living with a parent or legal guardian, can a district require that child or youth's caregiver to acquire legal guardianship?

No. TEC §25.001(b)(5) requires school districts to enroll homeless children regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child.

2.10 How can a district verify that a student is homeless?

There is no universal system of verification. In situations where homeless children are living in shelters, it may be possible to obtain verification from the shelter provider. In situations where runaway or homeless children are living with friends or relatives, the Department of Protective and Regulatory Services, local shelters for runaway youth, or other social service agencies may be able to verify the student's living arrangements. In situations where children are living in cars, campgrounds, or abandoned buildings, the only viable method of verification may be a visit by school personnel. When children, youth or families cannot verify their homelessness, their right to education is not diminished. It is recommended that denials of educational services **only** occur when the school district has documentable evidence that the child or youth should **not** be considered homeless based upon the definitions of the McKinney Act.

2.11 Is a district legally at risk when enrolling a child or youth without parental permission?

The TEC provides school district professionals with immunity as long as they are acting in the scope of their duties and are exercising discretion. TEC §22.051 (a) states that:

> *A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students.*

TEC§22.051(c) contains a definition of "professional employee" that is expansive, including superintendents, principals, teachers, supervisors, social workers, counselors, nurses, teachers' aides, student teachers, DPS-certified bus drivers, and anyone else whose employment requires certification and an exercise of discretion. TEC§22.053 extends this protection to volunteers who are serving as direct service volunteers of a school district.

TEC§22.051 provides protection to a school district's professional employees when they are acting within the scope of their duties, exercising judgment or discretion, and not using excessive force in disciplining students or have been negligent in disciplining students sufficiently to cause bodily injury. Homeless children and youth are entitled to enroll in any Texas school district under TEC §25.001(a). A school district's professional employees are protected from liability when they are acting within the mandates of the law. Any additional questions concerning liability or immunity should be addressed to the school district's legal counsel.

2.12 **Is a youth whose disabilities of minority have been removed by a court of law to be considered an adult for the purposes of school enrollment and other school-related matters?**

Yes. Section 31.006 of the Texas Family Code specifies that except for specific constitutional and statutory age requirements, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the power to contract.

2.13 **Do the attendance laws that apply to regular students also apply to homeless students?**

Yes. TEC §25.092 provides that a student may not be given credit for a class unless he or she is in attendance for at least 90 percent of the days the class is offered. However, students who do not meet the 90 percent requirement may appeal to the district attendance committee to regain lost credit or make up missed schoolwork if the absences were due to extenuating circumstances. Although there are no uniform criteria in state law to establish what constitutes an acceptable extenuating circumstance, homeless children who do not meet the 90 percent requirement because of the family's homelessness may appeal to the district's attendance committee to obtain credit.

2.14 Can a school refuse to provide information regarding the enrollment status of a student to a parent who is suspected of abuse and/or domestic violence?
According to the Family Educational and Privacy Rights Act (FERPA), codified in 20 U.S.C.A. §1232g(a)(1)(A), public schools must allow parents of dependent students to review their children's school records without prior consent. However, the act also provides that a school may refuse parental requests to review their children's school records if the school has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. For more information about this and other questions relating to abuse and domestic violence, call the Texas Department of Protective and Regulatory Services' Abuse Hotline at 1-800-252-5400.

2.15 Can homeless and other children in low-income families obtain free birth certificates for the purposes of school enrollment?
Yes. Section 191.0046 of the Texas Health and Safety Code provides that on the request of a child's parent or guardian, the state registrar shall issue without fee a certificate necessary for admission to school or to secure employment. The free birth certificate is only available for children born in Texas and limited to families with low incomes. Applications for a free birth certificate can be obtained from the OEHCY, 1-800-446-3142.

2.16 Are school personnel legally obligated to report suspected cases of child abuse and/or neglect?
Yes. Section 261.101(a) of the Texas Family Code requires that a person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report to the appropriate authorities, listed in §261.103 of the Texas Family Code.

If a professional has cause to believe that a child has been abused or neglected, the professional shall make a report to the appropriate authorities, listed in §261.103 of the Texas Family Code, within forty-eight (48) hours of the incident. In §261.101, a professional is defined as an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. This section states that 'professionals' include teachers, nurses, doctors, day-care employees, juvenile probation officers, juvenile detention or correctional officers, and the employees of a clinic or health care facility that provides reproductive services.

It is also important to note that the legal duty to report lies with each person who has cause to believe that abuse and neglect has occurred. It is the responsibility of the **individual**, not the school district, to make the report. A person who has cause to make a report--but knowingly fails to do so--commits a criminal offense. Finally, any district policy that prohibits or delays an employee's ability to make a report is

clearly inconsistent with state law. Local policy shall not require an employee to report abuse or neglect only to persons within the district organization.

2.17 Are children experiencing homelessness eligible to enroll in prekindergarten classes?

Yes. Under §29.153(b)(3) of the TEC, the prekindergarten eligibility criteria have been expanded to include homeless children. **All** preschool-age children experiencing homelessness are eligible to enroll in public school prekindergarten programs.

2.18 What if it is determined that a child or youth applying for enrollment as homeless does not, in fact, meet the definition of homelessness?

Sometimes children and youth live in circumstances in which it is not immediately clear if they are, or are not, homeless. If it is determined that the child or youth is not, in fact, homeless, the child or youth still belongs in school. TEC §25.085(b) mandates that all youth in Texas are required to attend school until they complete the academic year in which they turn 18 (unless specifically exempted by TEC §25.086).

In these situations, eligibility for enrollment should be determined in the same manner it would for any child or youth that is not experiencing homelessness. In most circumstances, the child or youth is applying for admission into the district in which they reside; therefore, the fact that they are not homeless would not make them ineligible for enrollment in a district in which they already reside. In circumstances in which it is determined that the child or youth is not homeless and not eligible for enrollment in the district in which they are applying for admission, the district should assist the student in determining the appropriate district in which to enroll. It is recommended that no child or youth is denied admission into a district without being told why and without being told the appropriate district in which to enroll.

For any questions regarding the definition of homelessness or the status of a specific student, please contact the OEHCY, 1-800-446-3142 (toll-free in Texas). For related questions regarding Texas enrollment laws and rules, contact the Legal Division of the Texas Education Agency, (512) 463-9720.

Part 3: How Schools Can Help

3.1 **What are the special needs of children and youth in homeless situations?**
Homeless children are first and foremost children. They vary in as many different ways as children in the general population, yet, at core, they have the same basic needs as other children: physiological needs (shelter, clothing, food, warmth); safety needs (order, security, a sense of continuity and well-being); the need to feel loved (a sense of belonging, a sense that one has significance to others); and the need for self-esteem (a sense of identity, a sense of accomplishment, a sense of control over one's own destiny). Situations related to homelessness result in many of the following basic needs being unmet:

Physiological Needs

For instance, some homeless children and youth:

- come to school with increased susceptibility to upper respiratory infections, skin disorders, and other illnesses because of their exposure to the elements or because of the quantity of stress in their lives; or
- are embarrassed to come to school because they do not have clean clothes or appropriate shoes, and fear being teased.

Familial Needs

For instance, some homeless children and youth:

- have difficulty establishing close friendships at school because they have been uprooted from their friends on several occasions; or
- may blame themselves for their families' homelessness; often they feel frustrated by their inability to help the family overcome its difficulties.

Safety Needs

For instance, some homeless children and youth:

- have been victims of physical or sexual abuse and/or may have witnessed extremely violent behavior; some of these children may exhibit overly aggressive behavior, others may be extremely withdrawn;
- may live in constant fear that they will be abducted by an abusive parent, or that their mother will be hurt by an abusive spouse or friend; these children may find it difficult to concentrate on school work, or they may fear walking home after school;

- may not have anywhere to go after school (particularly if they are living in a shelter that opens only at night); some of these children may not have a place to do homework, study, eat a snack, or play in a safe environment; or

- live in chaos and uncertainty, never knowing where they will be living, when they will be eating, or how they will meet their basic needs.

Self-esteem Needs

For instance, some homeless children:

- fear coming to school because they do not want others to know that they live in a shelter, in a car, or in some other atypical setting;

- may not have access to funds for such items as pencils, pens, paper, or gym clothes; therefore, these children may be concerned about the extent to which they fit in with other children or the extent to which they will be punished for their failure to acquire the needed items; or

- may have parents who are so absorbed in the process of acquiring work or acquiring a home that the children get little positive attention from parents; some of these children may attempt to compensate for this lack of attention through inappropriate behavior at school.

3.2 What services must school districts provide to children and youth in homeless situations?

Section 722(g)(4) of the McKinney Act requires that school districts provide services to homeless children and youth that are comparable to services provided to other students in the school district. Specifically, homeless children and youth must have access to any educational services for which they otherwise meet the eligibility requirements, including programs for emerging English proficient children, gifted children, or children with disabilities. Also, children and youth without homes who meet the relevant eligibility requirements must have access to free-and-reduced meal programs, before- and after-school programs, and programs for preschool students offered by the school district. Children experiencing homelessness are also eligible to receive Title I services without regard to school residency requirements or other requirements.

3.3 What can schools do to facilitate the school success of homeless children?

Access is the first step to success. The next step is to provide an environment that encourages the school success of all children, including homeless children. To provide such an environment, effective schools 1) develop a climate in which all children feel accepted, welcome, and safe; 2) develop an expectation that the school will succeed in promoting the success of every student; 3) develop a focus on instruction that responds to each student's learning needs; 4) develop relationships with parents (and those acting as parents) based on mutual respect and concern for each child's academic, social, and emotional growth; 5) develop systems for

evaluating progress towards learning goals for each child; and 6) develop leadership that articulates a vision in which the aforementioned occurs. In facilitating the success of homeless children, some effective schools provide the following kinds of support:

Psychological and Emotional Support

- Develop a system in which school personnel (including custodians, secretaries, food service personnel, and instructional aides) serve as mentors for children and youth experiencing homelessness.
- Provide at least a weekly contact to help these students feel welcome.
- Provide extra counseling to address homeless children's emotional needs.
- Provide shelters with packets of school supplies so that homeless children and youth come to school prepared for instruction.
- Have buddy systems to provide homeless children and youth (and other newly enrolled students) a friendly introduction to the campus.
- Work closely with shelters and agencies that provide social services so that children and youth experiencing homelessness might acquire prompt access to services available in the community.

Educational and Related Support

- Provide before-school, after-school, week-end, summer, and holiday programs that offer homeless children and youth tutoring, safe recreation, meals or snacks, and counseling assistance.
- Make extra efforts to ensure that homeless parents and caregivers of homeless children and youth feel accepted and welcome; some schools provide transportation for these parents/caregivers to school functions and parent/teacher conferences.
- Form child-study teams that establish goals for students, and regularly review progress towards those goals.
- Provide a teacher or a specially trained aide who assesses homeless children and youth (and other newly enrolled students) to identify performance levels so that teachers can begin appropriate instruction without delay.
- Provide transportation to children or youth (even when the child lives within the transportation limits of the district) when shelters or living arrangements are in dangerous environments or when children would otherwise be unable to attend school.

- Use telecommunications equipment (including telephones, facsimile machines, and email) available within school offices to acquire and transmit student records when needed to ensure immediate enrollment and/or appropriate placement.

Related Support

- Maintain clothing and supply closets, providing children and youth without homes items such as clothing, coats, shoes, personal hygiene items, or school supplies when needed.

- Allow homeless children and youth to use shower facilities in the mornings before school, when such facilities are not otherwise available to the student.

Community Outreach Support

- Make arrangements for school personnel to tour shelter facilities, meet shelter staff, and build positive relationships with shelter personnel and homeless parents.

- Advertise school programs in shelters and encourage students to enroll, and provide financial assistance for fees.

- Have visiting teachers, social workers, or parent ombudsmen visit homeless children and youth where they live, and offer assistance connecting families with available services in the community.

3.4 **Can school districts educate children and youth experiencing homelessness in separate schools (such as classrooms located on shelter sites)?**

Section 721(3) of the McKinney Act states that "homelessness alone should not be sufficient reason to separate students from the mainstream school environment." Furthermore, Section 722(g)(1)(H) requires that "the state educational agency and local educational agencies within the state will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized." The development of separate schools is not expressly prohibited. However, such schools should be provided only if there is reason (not based on the student's homelessness) for separation. Separate schools should take steps to ensure that children and youth are not isolated or stigmatized.

The U.S. Department of Education has not issued any guidance regarding the issue of separate schools for children and youth experiencing homelessness. However, Oregon Senator Gordon H. Smith asked for clarification from the U.S. Department of Education regarding the separate schools issue because of a controversy surrounding a transitional school for homeless children in Portland, Oregon. The response from the U.S. Department of Education is valuable in understanding how the U.S. Department of Education is approaching the separate schools issue. The following quote is excerpted from a letter dated May 12, 1998, that Mary Jean Le Tendre, Director of Compensatory Education Programs at the U.S. Department of

Education, sent to Senator Gordon H. Smith regarding separate schools for children and youth experiencing homelessness:

> *The existence of transitional schooling, per se, is not in violation of the McKinney Act. Under extraordinary circumstances, such as when the safety of a child is at stake, it might be appropriate to provide educational and support services to a child in a separate transitional setting for a very brief time. The Department, however, supports all efforts to enroll homeless children and youth in the mainstream school environment as soon as possible so that they will have access to the same high quality educational services and the opportunity to meet the same challenging State student performance standards as their non-homeless peers. A blanket policy that would allow an LEA to keep any homeless child or youth in a separate and segregated school for 30 days, regardless of the circumstances, is not acceptable.*

3.5 **If a homeless student moves without returning books, can a district withhold the student's records until payment is received or until the books are returned?**
No, a district cannot withhold student records from another school district. TEC §25.002(a) **requires** that the school district in which the student most recently attended must furnish the school in which the student is now enrolling with the student's records. See also the Texas Education Agency's *1998-99 Student Attendance Accounting Handbook*, Section III, (3-7) and (3-8).

While TEC §31.104(d) allows a district or school to withhold student records for unreturned textbooks, TEC §25.002(a) **requires** that school districts furnish these records to other districts within 30 days of the student's enrollment.

3.6 **Should schools use corporal punishment as a form of discipline for children or youth who are known or suspected by the school to be victims of abuse or domestic violence?**
The effects of domestic violence and/or abuse on children and youth is complex and profound. Children who have experienced abuse or domestic violence can act out or develop discipline problems. Schools should develop appropriate discipline policies that incorporate behavior management strategies and other alternatives to corporal punishment for such students. Domestic violence shelters prohibit corporal punishment being used as a form of discipline by residents. Many other types of emergency shelters also prohibit corporal punishment from being used as a form of discipline by residents. Schools and districts may work with their local domestic violence shelters to develop and coordinate appropriate responses to the discipline problems of these students.

3.7 **Is suspension an appropriate form of discipline to use on a homeless student?**
Homeless students fall under the same disciplinary policies as nonhomeless students. However, there are some important considerations involving the suspension of homeless students. Most shelters do not allow homeless residents to stay in the shelter during the day; in addition, many people in homeless situations live in cars, under bridges, and in temporary facilities. Hence, homeless students

who are suspended might not have a safe and secure place to serve out a suspension. Also, most homeless students have already missed much school because of their homelessness. Keeping them out of school, even if only for a brief period, increases their absence from direct educational instruction and services.

TEC §37.005 states that students may only be suspended for engaging in conduct for which they may be placed in an alternative education program. The length of suspension is limited to a three-day maximum. Therefore, instead of suspension, a school district may place a homeless student in an alternative education program in accordance with district policy. This disciplinary alternative minimizes the homeless student's absence from school and avoids the other problems associated with suspending a homeless student. Additional, similar alternatives to suspension from school that might be considered include in-school suspension or detention, if appropriate for the conduct under district policy.

3.8 **Is a school obligated to provide students with supplies that parents cannot afford, but that are necessary to fully participate in their education?**
Generally, no. However, TEC §11.158(f) provides that a school district shall adopt reasonable procedures for waiving a deposit or a fee if a pupil and his/her parent or guardian are unable to pay it. Section (b) of the same section specifies that a school board is not authorized to charge fees for field trips that are required as a part of a basic education program or course or admission fees for any activity the pupil is required to attend as a prerequisite to graduation.

3.9 **Are homeless pregnant teens, including those who live separate and apart from their parents in shelters and other homes for school-age pregnant youth, eligible for Pregnancy Related Services (PRS), including Compensatory Education Home Instruction (CEHI)?**
Yes. Pregnant students experiencing homelessness can be eligible for PRS, including CEHI. This includes homeless children and youth that live separate from their parents, those that live in shelters and homes for school-age pregnant youth, and those that are homeless because they are runaways or throwaways. The pregnant student's relationship to her parents does not impact her eligibility for PRS. For more information about PRS and CEHI, please see the Texas Education Agency's most recent *Student Attendance Accounting Handbook*. Unfortunately, PRS are not offered in all districts.

The most recent *Student Attendance Accounting Handbook* can be obtained from the TEA's Office of Publications Distribution and Sales (512) 463-9744 or, free of charge, from the TEA's website at http://www.tea.state.tx.us.

3.10 **How does Title I address the education of homeless children and youth?**
Title I, entitled "Helping Disadvantaged Children Meet High Standards," is part of the Elementary and Secondary Education Act (ESEA), Public Law 103-382.

Title I, Section 1001, DECLARATION OF POLICY AND STATEMENT OF PURPOSE, (c)(2), states that:

> *Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.*

3.11 What must a Local Educational Agency (LEA) plan include regarding the education of homeless children and youth?

Section 1112, LOCAL EDUCATIONAL AGENCY PLANS, (b)(4)(B) states that the local educational agency plan **shall** include a description of how the local educational agency will coordinate and integrate Part A services with other educational services at the local educational agency or individual school level, such as services for homeless children, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program.

Section 1112(b)(7) states that the local educational agency plan **shall** include a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for eligible homeless children.

3.12 May homeless children and youth attending non-Title I schools be served under Title I?

Yes. Section 1113, ELIGIBLE SCHOOL ATTENDANCE AREAS, (c)(3)(A) states that a district **shall** reserve Title I, Part A, funds as are necessary to provide comparable services, where appropriate, to eligible homeless children who might attend schools that do not receive Title I funds, including providing educationally related support services to children in shelters.

The LEA decides what educationally related support services it will provide under this section to eligible homeless children who reside in shelters but attend schools that do not receive Title I funds. Title I provides resources, but allows LEAs the flexibility to define and determine the comparable services that they will provide. There are many possible ways that an LEA can approach the provision of these comparable services. Some examples of educationally related support services that LEAs have provided to eligible homeless children who live in shelters but attend schools that do not receive Title I funds include tutoring, counseling, and social work services. These are by no means the extent of comparable services that can be provided and LEAs are in no way limited to these examples.

3.13 May homeless children and youth be eligible to receive services in a Title I, Targeted Assistance School Program?

Yes. Title I, Section 1115, TARGETED ASSISTANCE SCHOOLS, (b)(2)(D) states that the population eligible to receive Title I, Part A, services in a Targeted Assistance School Program may include a homeless child attending any school in the district.

Part 4: The Role of Shelters

The Office for the Education of Homeless Children and Youth estimates that during the course of a year, over 130,000 school-age children experience homelessness. While a large segment of this population lives in various nonshelter situations--in cars, under bridges, in temporary facilities, and in doubled-up arrangements with friends or family--many homeless children and youth will seek refuge in one of the more than 350 emergency shelters located throughout the state.

Like many other states, Texas has a variety of emergency shelters. The most common shelters available to homeless people are congregate shelters, which house families and single people, and are similar to those often operated by the Salvation Army. Other shelters are gender exclusive, allowing only men or only women to reside in the facility. Children who run away from home often find shelter in the runaway youth shelters that are scattered across the state in rural and urban areas. A large percentage of Texas' runaway youth are usually reunited with their families, but for those who are not, there are special transitional shelters where children and youth can live while they await foster care placement or entrance into independent living programs. Domestic violence shelters assist women and children who are fleeing abusive family relationships. Some shelters specialize in providing housing and services to single pregnant teens and teen parents who have been estranged from their families.

Typically, emergency shelters provide temporary shelter, food, clothing, and a wide range of services. Depending on the type of shelter, these services include counseling, employment and educational assistance, and assistance with procuring other community services and programs. Shelter residency is generally limited to 30 days but can extend to 4-6 months or longer depending on the circumstances and the shelter.

4.1 What can shelters do to facilitate the school success of children and youth experiencing homelessness?

To ensure that homeless students attend school and achieve success, the school and the community must work in tandem to secure and provide comprehensive services to address the students' complex needs. Providing health and human services to homeless students through collaborative programs linked to the schools, shelters, and social service agencies increases the likelihood that homeless students' needs will be met and that they will stay in school and graduate. To build such programs, coordination between social service agencies, schools, and shelters is not enough. Effective education for students without homes also rests on a high level of collaboration between professionals from community organizations interacting with the students and their families. Because shelters and their professional staff play an integral role in procuring services and resources for homeless families, they can assume leadership in facilitating the school success of homeless children by ensuring prompt access to services and programs available in the community and school. Understandably, most shelters are understaffed and underfunded, and their employees and volunteers overworked; hence, their ability to adequately meet the educational needs of homeless children and youth is often constrained. However, in response to a survey conducted by the OEHCY, many shelter providers indicated

that in facilitating the success of homeless students, some effective shelters do the following:

Social and Community Services

- Assign caseworkers and/or counselors to assist homeless children and their families with their emotional and psychological needs. In many instances the caseworker will assist with school enrollment and placement by attending Admission, Review, and Dismissal (ARD) meetings with parent(s) and consulting with school counselors and administrators concerning the homeless students' emotional, physical, and psychological needs.

- Work closely with the schools and social service agencies so that children and youth in homeless situations acquire prompt access to services and programs available in the community and schools.

- Appoint a liaison who interacts with the school district to assist homeless students with issues regarding enrollment, placement, transportation, safety, and other issues relevant to their education and welfare.

Enrollment and Attendance

- Make extra efforts to ensure that homeless students are attending school by monitoring their attendance on a daily and/or weekly basis.

- Require school-age children to be enrolled in school within 2 to 3 days of intake. If school-age children do not attend school, the parent(s) forfeit their residency privileges in the shelter.

- Expedite the school enrollment and placement of homeless children by working with schools to remove enrollment barriers such as school records, immunization, and residency requirements.

- Expedite the school enrollment and placement of homeless children by initiating enrollment at the shelter.

- Make an extra effort to ensure that upon enrollment, homeless students receive free meals at school.

Shelter and School Communication

- Periodically hold inservices for school personnel to help familiarize them with shelter facilities, staff, services, and shelter policies relating to the education of homeless children. Inservices for district employees and school personnel also provide an opportunity for shelters to offer sensitivity awareness and workshops on the legal protections available to homeless children and youth.

- Arrange to be on school district mailing lists and allow time for staff to attend seminars, school board meetings, and other school-related functions in order to establish a good rapport and maintain a positive working relationship with the school district. By being aware of school programs, policies, and requirements, shelters can help parents meet their children's educational needs.

- Maintain a continuously updated file of materials on programs offered by the school district.

Familial Support

- Provide classes to help homeless parents build self-esteem and develop interpersonal skills necessary to effectively communicate with school personnel, service providers, and their children. By offering parenting classes, shelters can help parents of homeless children and youth learn about discipline options, positive reinforcement techniques, and successful study habits to use with their children.

- Have parent support groups that provide homeless parents the opportunity to talk about their problems, concerns, and goals; discuss information about the school system that helps parents with decisions relating to their child's education.

- Encourage parents to attend school functions, such as open houses, school board meetings, Parent-Teacher Association (PTA) meetings, and parents' nights.

Shelter Services and Programs

- Assign children and youth a designated time and room for a quiet place to study.

- Provide tutoring programs that enlist shelter staff, school teachers, business leaders, community volunteers, and parents to help students with their studies.

- Allow parents and students the opportunity to use the kitchen area when a child has been asked to bring a baked/cooked item to school.

- Provide transportation and child care so that parents can attend parent-teacher meetings at school and participate in school programs and activities with their children.

- Design programs that help parents monitor their children's academic progress.

- Administer TB skin tests immediately upon intake.

- Offer programs for children and youth that help revive and build their self-esteem.

- Work with schools to provide transportation for students (even when the child lives within the two-mile limit of the school) when shelters or living arrangements are in dangerous environments or when children otherwise would be unable to attend school. When schools cannot provide transportation, shelters can provide transportation themselves, or give students tokens to help pay for public transportation.

- Provide school supplies, such as notebooks, pens and pencils, gym-clothes, and fares for field trips and other fee-related activities. Additionally, shelters should keep textbooks on hand to assist homeless students with their studies.

- Ensure that children and youth have appropriate clothing that is clean.

4.2 **Can school districts educate homeless children in separate schools (such as classrooms located on shelter sites)?**
Please see the response to question 3.4.

4.3 **Should shelter personnel report any kind of suspected child abuse and/or neglect?**
Yes. Section 261.101(a) of the Texas Family Code provides that **anyone** having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report the case to any state or local law enforcement agency and to the Department of Human Services. Moreover, Section 261.101(b) of the Family Code provides that if a professional (an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children--this term includes teachers nurses, doctors, day-care employees, and employees of a clinic or health care facility that provides reproductive services) has cause to believe that a child has or may be abused or neglected, that person has 48 hours after first suspecting the abuse or neglect to make a report. According to Section 261.109 of the Texas Family Code, failure to report suspected child abuse or neglect is a Class B

misdemeanor, punishable by imprisonment of up to 180 days and/or a fine up to $2,000.

4.4 Can shelter personnel request a school to release the school records of a resident child or youth?

No. In general, the Family Educational Rights and Privacy Act of 1974 (FERPA) requires that an educational agency or institution shall obtain a signed and dated written consent of a parent or eligible student before it discloses personally identifiable information from a student's educational records. An eligible student is a student who is at least 18 years of age or is attending an institution of post-secondary education. A parent includes a person acting as a parent in the absence of a parent or guardian. A release without consent must be in accordance with one of the exceptions under FERPA.

4.5 How can emergency shelters, in cooperation with local public schools, best assure the safety of children who are fleeing a violent situation while attending school?

- Develop open, effective, responsive, and responsible lines of communication with local police departments, child welfare offices, and school districts.
- Appoint a liaison to work with school district personnel, especially those who work closely with the children, such as principal, teacher, counselor, social worker, nurse, and school registrar.
- Follow the state and federal laws governing the rights to privacy and the release of confidential information by alerting the school of the child's situation so that school personnel can make informed decisions regarding the student's education, safety, and welfare.
- Implement policies, practices, and procedures with the school district that adhere to state and federal laws governing the rights to privacy and the release of confidential information.
- Develop strategies and procedures to protect the student's safety, both at school and at the shelter.
- Help school districts develop appropriate discipline policies that incorporate behavior management strategies and other alternatives to corporal punishment.
- Provide schools with comprehensive inservice training that includes awareness of the causes, concerns, and issues relating to domestic violence and its victims, nutritional and other health concerns, strategies to enhance self-esteem, management of peer relationships, development of parent-child-school relationships, and counseling strategies that incorporate the child's perspective.

- Make arrangements with schools to provide home instructional services to children who are not able to attend the public schools because of threat of violence from their abuser or because they would be under threat of danger as a result of the immediate environment existing around their school and/or shelter.

- Work with schools to provide transportation (even when the shelter is within two miles of the school) to protect the child from being abducted by his/her abuser. Transportation to schools outside the shelter's attendance zone can also be provided so that abusers cannot locate the children through the school.

4.6 **What steps can be taken by local schools and emergency shelters to assure continued enrollment once a family leaves the facility?**

Develop follow-up and post-placement care programs that help exiting and former shelter residents access needed social services, and that ensure that homeless children and youth continue their education and have access to a free and appropriate public education after they leave the shelter. To facilitate continued enrollment, some post-placement care programs do the following:

- Assign a shelter caseworker to maintain contact with the family and children after they leave the shelter.

- Help parents withdraw their child(ren) and obtain copies of school records (Social Security or PEIMS ID number, transfer, immunization, special classes attended, withdrawal, test scores, and grades) and organize them so that they are in a format that moves easily and allows parents to enroll their children in another school without delay.

- Institute a tracking system to contact former and future schools to verify if school records have been transferred or requested.

- Notify a prospective school that the homeless child and/or family is planning to move into its attendance zone so that the school can make preparations for enrollment and make an outreach effort to recruit the child if he/she fails to enroll.

- If a family and/or child leaves the shelter without notice, notify the school of their departure.

- Provide parent(s) with a post-care checklist that reminds them of the things they need to do when they move to another shelter or new address.

4.7 **Can shelters require that resident school-age children attend school?**

Yes. Shelter policies generally require school-age residents to attend classes to ensure compliance with state compulsory attendance laws. Under TEC §25.085, children who are within the compulsory attendance age range must attend classes or risk being convicted of truancy by a local court.

Part 5: Special Education and the Homeless Student

As defined by federal law, the purpose of Special Education is to ensure that all children with disabilities have available to them a free, appropriate public education that includes special education and related services designed to meet their unique needs. Additionally, it is the intent of the law to ensure that the rights of children with disabilities and their parents are protected and to assist states and localities in providing for the education of all children with disabilities and to assess and ensure the effectiveness of efforts to educate those children.

5.1 What is required of special education programs related to the education of students in homeless situations?

Not all homeless students are students with disabilities. However, some homeless children and youth are students with disabilities and are not receiving appropriate special education services. Under the Individuals with Disabilities Education Act, each school district is required to have policies and procedures in effect to ensure that all children with disabilities residing in the district and all homeless children with disabilities enrolled in the school district who are in need of special education and related services are identified, located, and evaluated.

Section 504 of the Rehabilitation Act of 1973 requires that districts annually undertake to identify and locate every qualified person with a disability residing in the district's jurisdiction that is not receiving a public education. The Assistant Secretary for Civil Rights for the U.S. Department of Education (in a letter to the Chief State School Officers dated October 15, 1990) drew attention to the need to conduct child find activities to identify unserved children with disabilities who are homeless. Also, because Section 722(g)(4) of the McKinney Act requires that each homeless child be provided services comparable to those offered to other students, school districts must ensure that each homeless child has equal access to the same free, appropriate public education as provided to children who are not homeless.

5.2 Should all students experiencing homelessness be referred for special education evaluation?

No. Homeless students must be referred and evaluated for special education on the same basis as non-homeless students. The school district should consider the individual educational needs of homeless students and make a determination regarding a referral for a special education evaluation on the same basis and in the same manner it makes determinations regarding the referral of nonhomeless students for special education evaluations.

5.3 **Is there any provision to treat homeless children differently from other students regarding receipt of special education services?**
No. Homeless children should be granted the same rights, privileges, processes, and services as children who are not homeless.

5.4 **If a homeless student who is receiving special education services from a school district leaves the school district and enrolls in a new school district, can the new school district begin providing special education services immediately?**
Yes. According to 19 TAC §89.1050(e), for a student who is new to a school district, the student's Admission, Review, and Dismissal (ARD) committee may meet when the student registers and the parents verify that the student was receiving special education services in the previous school district or the previous school district verifies in writing or by telephone that the student was receiving special education services.

Special education services that are provided immediately by the new school district (based on confirmation that the student was receiving special education services in his or her previous school district) are temporary, contingent upon receipt of valid evaluation data from the previous school district or the collection of new evaluation data. A second meeting of the student's ARD committee shall be held within 30 school days after the first ARD committee meeting to finalize or develop a new Individual Education Plan (IEP) based on the evaluation data.

5.5 **Can the evaluation of a homeless student for eligibility for special education services be given precedence over pre-existing referrals of other non-homeless students?**
Yes. The policy establishing the sequence in which students are referred or tested is generally developed by the local school district, without guidance from the state or federal government. Unfortunately, many homeless students may not have been determined to be eligible for special education services because they have not remained in any district long enough to complete the referral and evaluation process. Hence, districts are encouraged to expedite evaluation of a homeless student for special education services. School districts that have a backlog of special education evaluations may contract with qualified practitioners outside the school district to expedite a homeless student's evaluation.

5.6 **If a homeless student moves prior to the completion of the referral and assessment process, can the student's new school district simply complete the unfinished portion of the process or is it necessary to reinitiate the referral process?**
Once the new school district has received the student's special education referral and evaluation packet, the new school district may resume the process where the former school district left off. However, the new school district is permitted to take the full 60 days to complete the process, as

provided by law. Because of the transitory nature of students in homeless situations, districts are encouraged to expedite the process.

5.7 **Can a student experiencing homelessness under the age of 18 who does not have a parent or legal guardian participate in special education?**
Yes. The school district may, in special circumstances, appoint a surrogate parent to act on the child's behalf in matters relating to special education and related services. However, the state and federal laws that authorize a surrogate parent to act on behalf of a child on matters dealing with the identification, evaluation, and educational placement vary according to the circumstances. It is important to make certain that the child's legal guardian or surrogate parent has the legal authority necessary to sign consent forms for special education issues.

5.8 **Must a district provide transportation for a physically disabled homeless student who lives within the two-mile limit but is unable to use conventional transportation methods?**
Yes, if the student's ARD committee determines that transportation is necessary for the student to receive educational benefits.

5.9 **If a physically disabled homeless student is initially assigned to a campus that is not equipped to meet the student's special education needs, what is the maximum length of time that may pass before the school district must provide transportation to another school?**
The student must be placed appropriately as soon as is reasonably possible, and modifications to accommodate the student's needs in the current placement must be made until the placement is changed.

If you have specific questions regarding special education for homeless students that are not answered in this document, please call the toll-free number for the Special Education Division at the Texas Education Agency, 1-800-252-9668, or refer to the Division's web page at: http://www.tea.state.tx.us/special.ed/

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